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HOUSE BILL 586

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO MOTOR VEHICLES; AUTHORIZING THE USE OF AUTOMATED ENFORCEMENT SYSTEMS FOR THE ISSUANCE OF CITATIONS FOR CERTAIN VIOLATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"[NEW MATERIAL] AUTOMATED ENFORCEMENT SYSTEM CITATIONS. -- A state or local law enforcement agency may use an automated enforcement system to issue citations for alleged violations of state or municipal laws relating to motor vehicles that are punishable as a misdemeanor. "

Section 2. Section 66-1-4.21 NMSA 1978 (being Laws 1998 (1st S.S.), Chapter 10, Section 9) is amended to read:

"66-1-4.21. ADDITIONAL DEFINITIONS. --As used in the Motor

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1 Vehicle Code:

2 A. "automated enforcement system" means an  
3 electronic system consisting of a camera and a vehicle sensor  
4 that automatically records images of each vehicle whose driver  
5 violates a traffic law, including not obeying a standard  
6 traffic-control device;

7 ~~[A.]~~ B. "evidence of registration" means any  
8 documentation issued by the department identifying a motor  
9 carrier vehicle as being registered with New Mexico or  
10 documentation issued by another state pursuant to the terms of  
11 a multistate agreement on registration of vehicles to which  
12 this state is a party identifying a motor carrier vehicle as  
13 being registered with that state; provided that evidence of  
14 payment of the weight distance tax and permits obtained under  
15 either the Special Fuels Supplier Tax Act or Trip Tax Act are  
16 not "evidence of registration";

17 ~~[B.]~~ C. "fleet" means one or more motor carrier  
18 vehicles, either commercial or noncommercial but not mixed,  
19 that are operated in this and at least one other jurisdiction;

20 ~~[C.]~~ D. "motor carrier" means any person or firm  
21 that owns, controls, operates or manages any motor vehicle with  
22 gross vehicle weight of twelve thousand pounds or more that is  
23 used to transport persons or property on the public highways of  
24 this state;

25 ~~[D.]~~ E. "one-way rental fleet" means two or more

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1 vehicles each having a gross vehicle weight of under twenty-six  
2 thousand one pounds and rented to the public without a driver;

3 ~~[E.]~~ F. "preceding year" means a period of twelve  
4 consecutive months fixed by the department, which period is  
5 within the sixteen months immediately preceding the  
6 commencement of the registration or license year for which  
7 proportional registration is sought. The department, in fixing  
8 that period, shall make it conform to the terms, conditions and  
9 requirements of any applicable agreement or arrangement for the  
10 proportional registration of vehicles;

11 ~~[F.]~~ G. "properly registered" means bearing the  
12 lawfully issued and currently valid evidence of registration of  
13 this or another jurisdiction, regardless of the owner's  
14 residence, except in those cases where the evidence has been  
15 procured by misrepresentation or fraud; and

16 ~~[G.]~~ H. "public highway" means every way or place  
17 generally open to the use of the public as a matter of right  
18 for the purpose of vehicular travel, even though it may be  
19 temporarily closed or restricted for the purpose of  
20 construction, maintenance, repair or reconstruction."

21 Section 3. Section 66-7-9 NMSA 1978 (being Laws 1978,  
22 Chapter 35, Section 379, as amended) is amended to read:

23 "66-7-9. POWERS OF LOCAL AUTHORITIES. --

24 A. The provisions of the Motor Vehicle Code shall  
25 not be deemed to prevent local authorities, with respect to

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1 streets and highways under their jurisdiction and within the  
2 reasonable exercise of the police power, from:

3 (1) regulating the standing or parking of  
4 vehicles;

5 (2) regulating traffic by means of police  
6 officers or traffic-control signals;

7 (3) regulating or prohibiting processions or  
8 assemblages on the highways;

9 (4) designating particular highways as one-way  
10 highways and requiring that all vehicles thereon be moved in  
11 one specific direction;

12 (5) regulating the speed of vehicles in public  
13 parks;

14 (6) designating any highway as a through  
15 highway and requiring that all vehicles stop before entering or  
16 crossing it or designating any intersection as a stop  
17 intersection or a yield intersection and requiring all vehicles  
18 to stop or yield at one or more entrances to the intersection;

19 (7) restricting the use of highways as  
20 authorized in the Motor Vehicle Code;

21 (8) regulating the operation of bicycles and  
22 requiring their registration and licensing, including the  
23 requirement of a registration fee;

24 (9) regulating or prohibiting the turning of  
25 vehicles, or specified types of vehicles, at intersections;

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1 (10) altering the maximum speed limits as  
2 authorized in the Motor Vehicle Code;

3 (11) adopting other traffic regulations as  
4 specifically authorized by the Motor Vehicle Code;

5 (12) regulating the operation of snowmobiles  
6 on public lands, waters and property under their jurisdiction  
7 and on streets and highways within their boundaries by  
8 resolution or ordinance of their governing bodies and by giving  
9 appropriate notice, if such regulation is not inconsistent with  
10 the provisions of Sections 66-9-1 through 66-9-13 NMSA 1978;

11 [~~or~~]

12 (13) regulating the operation of golf carts on  
13 public lands and property under their jurisdiction and on  
14 streets and roads within their boundaries by resolution or  
15 ordinance of their governing bodies and requiring their  
16 registration and licensing, including the payment of a  
17 registration fee; provided, the resolution or ordinance shall:

18 (a) not permit operation of a golf cart  
19 on any state highway;

20 (b) require that the golf cart be in  
21 compliance with Section 66-3-887 NMSA 1978; and

22 (c) not be inconsistent with the  
23 provisions of Sections 66-3-1001 through 66-3-1016 NMSA 1978;

24 or

25 (14) regulating traffic and issuing citations

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1 by means of an automated enforcement system at intersections,  
2 in school zones and on highways.

3 B. ~~[No]~~ A local authority shall not erect or  
4 maintain any stop sign or traffic-control signal at any  
5 location so as to require the traffic on any state highway to  
6 stop or yield before entering or crossing any intersecting  
7 highway unless approval in writing has first been obtained from  
8 the state ~~[highway]~~ transportation commission.

9 C. ~~[No]~~ An ordinance or regulation enacted under  
10 Paragraph (4), (5), (6), (7), ~~[or]~~ (10) or (14) of Subsection A  
11 of this section shall not be effective until signs giving  
12 notice of the local traffic regulations are posted upon or at  
13 the entrances to the highway or part thereof affected as may be  
14 most appropriate. "

15 Section 4. Section 66-8-117 NMSA 1978 (being Laws 1978,  
16 Chapter 35, Section 525, as amended) is amended to read:

17 "66-8-117. PENALTY ASSESSMENT MISDEMEANORS-- OPTION--  
18 EFFECT. --

19 A. Unless a warning notice is given, at the time of  
20 making an arrest for any penalty assessment misdemeanor the  
21 arresting officer shall offer the alleged violator the option  
22 of accepting a penalty assessment. The violator's signature on  
23 the penalty assessment notice constitutes an acknowledgment of  
24 guilt of the offense stated in the notice.

25 B. In the case of an automated enforcement system

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1 citation issued by a law enforcement agency, the violator shall  
2 have the option of accepting the penalty assessment. The  
3 violator's signature on the penalty assessment notice  
4 constitutes an acknowledgment of guilt of the offense stated in  
5 the notice.

6 [B-] C. Except for penalty assessments made under a  
7 municipal program authorized by Section 66-8-130 NMSA 1978,  
8 payment of any penalty assessment must be made by mail to the  
9 division within thirty days from the date of arrest or notice  
10 of an automated enforcement system citation. Payments of  
11 penalty assessments are timely if postmarked within thirty days  
12 from the date of arrest or notice of an automated enforcement  
13 system citation. The division may issue a receipt when a  
14 penalty assessment is paid by currency, but checks tendered by  
15 the violator upon which payment is received are sufficient  
16 receipt.

17 [C.—No] D. A record of any penalty assessment  
18 payment is not admissible as evidence in any court in any civil  
19 action. "

20 Section 5. Section 66-8-126 NMSA 1978 (being Laws 1978,  
21 Chapter 35, Section 534) is amended to read:

22 "66-8-126. FAILURE TO OBEY NOTICE TO APPEAR. --

23 A. It is a misdemeanor for any person to violate  
24 his written promise to appear in court given in response to an  
25 automated enforcement system citation or to an officer upon

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1 issuance of a uniform traffic citation, regardless of the  
2 disposition of the charge for which the citation was issued.

3 B. A written promise to appear in court may be  
4 complied with by appearance of counsel. "

5 Section 6. Section 66-8-128 NMSA 1978 (being Laws 1978,  
6 Chapter 35, Section 536, as amended) is amended to read:

7 "66-8-128. UNIFORM TRAFFIC CITATION. --

8 A. The department shall prepare a uniform traffic  
9 citation containing at least the following information:

10 (1) an information section, serially numbered  
11 and containing spaces for the name, address, city and state of  
12 the individual charged; the individual's physical description,  
13 age and sex; the registration number, year and state of the  
14 vehicle involved and its make and type; the state and number of  
15 the individual's driver's license; the specific section number  
16 and common name of the offense charged under the NMSA 1978 or  
17 of local law; the date and time of arrest; the arresting  
18 officer's signature and identification number; and the  
19 conditions existing at the time of the violation;

20 (2) a notice to appear; and

21 (3) a penalty assessment notice with a place  
22 for the signature of the violator agreeing to pay the penalty  
23 assessment prescribed.

24 B. The department shall prescribe how the uniform  
25 traffic citation form may be used as a warning notice.

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C. The department shall prescribe the size and number of copies of the paper version of the uniform traffic citation and the disposition of each copy. The department may also prescribe one or more electronic versions of the uniform traffic citation, and these electronic versions may be used in the issuance of citations.

D. Any entity that wishes to submit uniform traffic citations required to be submitted to the department by electronic means ~~[must]~~ shall secure the prior permission of the department.

E. The department shall prescribe the form and content of a uniform automated enforcement system citation and the procedures by which the citation may be issued and processed. "

Section 7. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2003.